IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN
AT JAIPUR BENCH

ORDER

Anjuman Society Khandan-E-Amiriya Tonk Vs. State of Rajasthan & Others
(SB Civil Writ Petition No.5508/1998)

SB Civil Writ Petition under Article
226 of the Constitution of India.

Date of order: October 03, 2006.

PRESENT

HON'BLE MR. JUSTICE SHIV KUMAR SHARMA

Mr. Praveen Jain, for the petitioner.

None for respondents.

BY THE COURT:

The petitioner society in the instant writ petition claims khandan allowance as per increased rate.

2. Contextual facts depict that the petitioner is a registered society consisting of the members of Khandan of His Highness Nawab-Amir-Ud-Daulah, ruler of the then State Tonk. The members of the society are receiving Khandan Allowance under the provisions of Tonk State Khandan Rules,1944 (for short `1944 Rules'). The 1944 Rules were published in State Gazette extraordinary on May 25, 1944 under the command of His Highness the Nawab by the Darbar Secretary Mirza Amir Ali Khan. These Rules constituted Law made by the sovereign authority and had statutory force. With the aim and object to abolish the cash jagir etc. within the territory of Rajasthan State, the Rajasthan Legislature published Rajasthan Cash Jagir

Abolition Act,1958 on July 13, 1958. On December 13, 1969 the State Government issued an order which was published in Rajasthan Gazette Part-I (Kha) dated February 12, 1970 whereby the provisions of the Act of 1958 were exempted in respect of persons who were governed by 1944 Rules. In Anjuman Society Khandan-E-Amiriyas Tonk Vs. State of Rajasthan [1944 (2) WLC (Raj.) 538], the writ petition No.3072/1990 decided on July 28, 1994 this court held that 1944 Rules still hold the field as "law in force" and allowing the writ petition the impugned orders dated July 26, 1986 and August 3, 1987 were quashed.

The petitioner society has preferred the writ petition with the prayer to direct the respondents to make payment of Khandan Allowance under 1944 Rules to the members of the petitioner Society as per increased rate of Khandan Allowance vide order dated November 14, 1979 @ Rs.40/- per month and order dated December 24, 1992 @ Rs.100/- per month for the period for which the same has not been paid. The interest has also been claimed.

3. The respondents submitted reply to writ petition with the request to reject the writ petition. It is averred that the members of the petitioner society were not entitled to receive the khandan allowance as per increased rate.

4. Having scanned the material on record, I notice that the amount of khandan allowance was increased to Rs.40/- per month vide order dated November 14, 1979 and it was further enhanced to Rs.100/- per month vide order dated December 24, 1992.

5. Since 1944 Rules still hold the field, in my opinion, the members of the petitioner society are entitled to receive the khandan allowance as per increased rates.

6. Consequently, the writ petition stands allowed and the respondents are directed to pay the khandan allowance to the members of petitioner society as per increased rates within a period of four months from the date of receipt of certified copy of this order. The petitioner shall however not be entitled to the interests and costs.

(Shiv Kumar Sharma)J.

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